

Document No. 5138

Adopted at Meeting of FEB. 16, 1989

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY

RE: MINOR MODIFICATIONS OF THE URBAN RENEWAL PLAN OF THE FENWAY URBAN RENEWAL AREA, PROJECT NO. MASS. R-115 AND AUTHORIZATION TO PROCLAIM BY CERTIFICATE AND RECORD THE MINOR MODIFICATIONS

WHEREAS, the Urban Renewal Plan for the Fenway Urban Renewal Area, Project No. Mass. R-115 (the "Plan") was adopted by the Boston Redevelopment Authority (the "Authority") and is recorded with Suffolk County Registry of Deeds in Book 8327, Page 660, and requires the development of land in compliance with the regulations and controls of the Plan;

WHEREAS, Section 1201 of said Plan, entitled "Modifications and Termination", provides in Subsection 1201(1) that the Urban Renewal Plan may be amended or modified at any time by the Authority provided that the modifications do not substantially or materially alter or change the Plan;

WHEREAS, Subsection 1201(2) provides further that no amendment or modifications to any provisions of Chapter VI of the Plan shall be effective with respect to any land which the Authority has then disposed of without the consent of the other party to such disposition or such other party's successors or assigns;

WHEREAS, Section 602 of said Plan, entitled "Use and Development Controls on Disposition Parcels", and Table B therein sets forth the permitted land use and other land use controls for Disposition Parcel 13 of the Plan;

WHEREAS, Section 603 of said Plan, entitled "General Requirements", sets forth in Subsection 603(7), certain off-street parking requirements for institutional uses;

WHEREAS, the proposed modifications to Sections 602 and 603 of said Plan, as hereinafter set forth, in connection with Development Parcel 13F only (a sub-parcel of Development Parcel 13), are minor modifications to the Plan and may be adopted within the discretion of the Authority pursuant to Subsection 1201(1) and said minor modifications have been consented to by MBH Associates, a Massachusetts limited partnership, to which the Authority conveyed Disposition Parcels 13B, 13C, 13D, 13E, and 13F, by Land Disposition Agreement and Deed, both dated April 11, 1980 and recorded in the Suffolk County Registry of Deeds in Book _____, Page _____, as required by Subsection 1201(2); and

WHEREAS, the Authority is cognizant of Section 61 of Chapter 30 of the General Laws, as amended, with respect to minimizing and preventing damage to the environment;

NOW, THEREFORE BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY THAT:

Pursuant to Section 1201(1) and (2) of the Fenway Urban Renewal Plan, said Plan be and hereby is modified as follows:

1. That Section 602 of said Plan, entitled "Use and Development Controls on Disposition Parcels" and Table B therein on page 25, is modified by deleting in its entirety the permitted land use and other land use controls set forth as they relate to Disposition Parcel Number 13" and inserting in place thereof the following:

<u>"Disposition Parcel Number</u>	<u>Permitted Land Use</u>	<u>Maximum Floor Area Ratio</u>	<u>Planning and Design Requirements</u>
13B, 13C, 13D, and 13E	Residential; Commercial	5.5	A, B, C, D, E, F, I, and J
13F	Parking Garage; Institutional (Health Clinic)";	5.5	A, B, C, D, E, F, I, and J";

2. That Section 603 of said Plan, entitled "General Requirements", specifically Subsection 603(7), entitled "Parking Areas", on pages 29 and 30, is modified by adding the following sentence at the end of the second paragraph of said Subsection 603(7):

"The off-street parking spaces required for institutional uses (i.e., 1.0 per 1000 square feet of gross floor area) shall not apply to any institutional (health clinic) use on Disposition Parcel 13F";

3. That the proposed modifications, set forth in 1 and 2 above, are found to be minor modifications which do not substantially or materially alter or change the Plan and they have been consented to by MBH Associates, the record owner of Disposition Parcel 13F;

4. That all other provisions of said Plan not inconsistent with the minor modifications, set forth in 1 and 2 above, remain in full force and effect;

5. That it is hereby found and determined that the minor modifications, set forth in 1 and 2 above, will not result in significant damage to or impairment of the environment and further, that all practicable and feasible means and measures have been or will be taken to avoid or minimize damage to the environment;

6. That the Authority is Director be and he hereby is authorized to proclaim by certificate the minor modifications set forth herein, all in accordance with the provisions of the Urban Renewal Handbook, RHM 7207.1, Circular dated August 8, 1974; and

7. That the Authority is Executive Secretary be and hereby is authorized to execute an instrument in recordable form, evidencing this resolution, and such related matters as he deems appropriate for recording in the Suffolk County Registry of Deeds.

Board of Directors
Boston Commonwealth Building
Fifth Floor
Boston City Hall
Boston, MA 02108

ATTN: David W. Brown

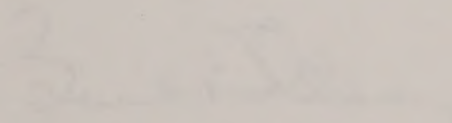
RE: THE COMMONWEALTH

Members of the Board

We respectfully request that you be authorized to execute and deliver to the Secretary of the Commonwealth, and to the Secretary of the Department of Transportation, the instrument of recordable form, evidencing this resolution, and such related matters as he deems appropriate for recording in the Suffolk County Registry of Deeds.

In view of the fact that the instrument of recordable form, evidencing this resolution, and such related matters as he deems appropriate for recording in the Suffolk County Registry of Deeds, is a public document, we are in good faith.

Very truly yours,


Edward F. Sullivan, Jr.

SHADRAWY & RABINOVITZ

A PROFESSIONAL ASSOCIATION
OF
ATTORNEYS AT LAW

BERNARD F. SHADRAWY, P.C.
BERNARD F. SHADRAWY, JR., P.C.
EDWARD RABINOVITZ
ROBERT E. BROOKS

15 BROAD STREET
BOSTON, MASSACHUSETTS 02109-3803

(617) 523-3333
TELECOPIER (617) 523-5185

February 9, 1989

Board of Directors
Boston Redevelopment Authority
Ninth Floor
Boston City Hall
Boston, MA 02201

ATTN: DAVID ROBERTS

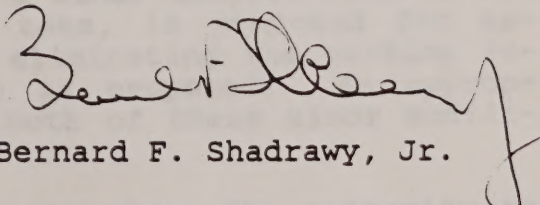
RE: MBH Associates

Members of the Board:

We represent MBH Associates, a c. 121A project located at Boylston and Haviland Streets in Boston. We have reviewed the minor modifications to the Fenway Urban Renewal Plan that has been proposed to facilitate the Second Amendment to the MBH Associates c. 121A Agreement.

In view of the fact that these modifications will enable the Second Amendment to be adjusted, we are in accord with these modifications.

Very truly yours,



Bernard F. Shadrawy, Jr.

BFSJr/nmd

MEMORANDUM

FEBRUARY 16, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: WILLIAM D. WHITNEY, ASSISTANT DIRECTOR FOR
URBAN DEVELOPMENT AND DESIGN
PETER DREIER, DIRECTOR OF HOUSING

SUBJECT: MINOR MODIFICATIONS TO FENWAY URBAN RENEWAL PLAN FOR
PARCEL 13F AND AMENDMENT TO LAND DISPOSITION AGREEMENT

EXECUTIVE

SUMMARY: To be consistent with the Second Amendment to the Report and Decision on the MBH Associates Chapter 121A Project, which in part changes the permitted land uses for Parcel 13F and grants certain zoning deviations, Minor Modifications to the Fenway Urban Renewal Plan and an Amendment to the previously executed Land Disposition Agreement are required.

The property which constitutes the MBH Associates Chapter 121A Project (the "Project"), respectively Parcels 13B, 13C, 13D, 13E and 13F of the Fenway Urban Renewal Area, were conveyed by the Authority to MBH Associates in accordance with a Land Disposition Agreement and Deed, both dated April 14, 1980. The Second Amendment to the Report and Decision on the Project contemplates the construction of a building on Parcel 13F, the existing open parking lot at 5-11 Haviland Street. Presently, the permitted land uses for Parcel 13F under the Fenway Urban Renewal Plan (the "Plan") are "Residential; Commercial". Since the proposed new building on Parcel 13F will include a parking garage and a health clinic, an institutional use, a minor modification to the plan, which will reflect these new uses, is proposed for approval. Also, a minor modification eliminating the parking requirement for the institutional use is proposed. An appropriate Resolution in connection with both of these minor modifications is enclosed.

Section 1201 (1) and 2 of the Plan authorizes the Authority to adopt minor modifications which have been consented to by the record owner of the relevant parcels. First, the Office of General Counsel has determined that the proposed modifications are minor, they do not substantially alter or change the Plan as a whole, and therefore may be adopted in the Authority's discretion. Second, MBH Associates has consented to these minor modifications, as evidenced by the enclosed letter from its counsel, Shadrawy & Rabinovitz, dated February 9, 1989.

An Amendment to the previously executed Land Disposition Agreement is required to incorporate reference to the beforementioned minor modifications and the plans for the construction of the building on Parcel 13F.

It is recommended that the Authority adopt the enclosed Resolution and further authorize the execution of an Amendment to the Land Disposition Agreement and related documents or agreements, to reflect the proposed changes for Parcel 13F and to be consistent with the Second Amendment to the Report and Decision. Appropriate votes follow:

VOTE: That the resolution presented to this meeting entitled, "RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY, RE: MINOR MODIFICATIONS OF THE URBAN RENEWAL PLAN OF THE FENWAY URBAN RENEWAL AREA, PROJECT NO. MASS. R-115 AND AUTHORIZATION TO PROCLAIM BY CERTIFICATE AND RECORD THE MINOR MODIFICATIONS", is hereby approved and adopted.

FURTHER

VOTED: That the Director be and he hereby is authorized, on behalf of the Boston Redevelopment Authority (the "Authority"), to execute an Amendment to that certain Land Disposition Agreement, between the Authority and MBH Associates, dated April 14, 1980, and any other agreements or documents in connection with the revised plans for the redevelopment of Parcel 13F of the Fenway Urban Renewal Area and the duly adopted minor modifications to the Fenway Urban Renewal Plan. The terms and conditions of said Amendment and or other related agreements or documents must be acceptable to the Chief General Counsel.